

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LAZARO MEDINA-AYON and
SERGIO PENA-ZAVALA,

Defendants.

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8:08CR345

ORDER

This matter is before the court on the motion of defendant Sergio Pena-Zavala (Pena-Zavala) to file pretrial motions out of time (Filing No. 31). Pena-Zavala's counsel represents that government's counsel has no objection to the motion. Pena-Zavala has filed an affidavit wherein he consents to the motion and understands the time required for the motion may be excluded from Speedy Trial Act calculations. The motion will be granted as set forth below.

IT IS ORDERED:

1. Defendant Pena-Zavala's motion to file pretrial motions out of time (Filing No. 31) is granted. Pena-Zavala is given **until December 10, 2008**, in which to file pretrial motions. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **November 26, 2008 and December 10, 2008**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

2. Trial of this matter scheduled for December 8, 2008, is **canceled** and will be rescheduled following the disposition of any pretrial motion or the expiration of the deadline set forth herein.

DATED this 26th day of November, 2008.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge